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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

L.A.,

Petitioner,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E061343

(Super.Ct.No. RIJ110067)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Jacqueline C.

Jackson, Judge. Petition denied.

David A. Goldstein for Petitioner.

No appearance for Respondent.

Gregory P. Priamos, County Counsel and Anna M. Marchand, Deputy County  
Counsel, for Real Party in Interest

Petitioner is the mother of two children, I.A. and P.A., ages 4 and 3 at the time of the challenged orders. Mother challenges the juvenile court's orders made at the jurisdiction hearing on June 9, 2014, denying her reunification services and setting a hearing under Welfare and Institutions Code section 366.26 to consider terminating her parental rights.<sup>1</sup> We conclude that sufficient evidence supports the court's findings that mother failed to make reasonable efforts to address her years-long addiction to methamphetamine under section 361.5, subdivisions (b)(10) and (b)(11).

### **FACTS AND PROCEDURE**

#### *Prior Dependency Case Re These Children—January 2011 to March 2012*

In January of 2011, the children, then ages seventeen months and seven months, were taken into custody after police were called because mother, father, and a paternal aunt were involved in a physical altercation outside a store. Deputies determined that mother and father were under the influence of methamphetamine. The children were taken into protective custody and the Riverside County Department of Public Social Services (DPSS) filed a petition alleging mother had engaged in domestic violence with the aunt, the parents had extensive drug abuse problems, and the parents had an extensive history with DPSS, including failing to reunify with numerous other children. The juvenile court initially denied mother reunification services when it took jurisdiction over the children in April 2011.

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<sup>1</sup> All section references are to the Welfare and Institutions Code unless otherwise indicated.

However, after mother enrolled in residential drug treatment and a number of other services on her own, she filed a section 388 request to change the courts order, which DPSS joined. In September 2011, the court granted mother reunification services. In November 2011, the children were returned to the parents on family maintenance. On March 21, 2012, the juvenile court terminated jurisdiction.

*Most Recent Detention—March 2014*

Two years later, on March 19, 2014, DPSS received an immediate response referral from Sheriff's deputies conducting a probation check on the children's father at the family home. The deputies were following up on information they received that the parents were making fraudulent gift cards and selling drugs, and that gang activity was taking place at the home. Deputies found methamphetamine and a methamphetamine pipe in the home, but no other drugs. The deputies told the social worker that father had been arrested in November 2013 for possessing methamphetamine and a methamphetamine pipe, and that mother had just recently been arrested on March 11, 2014, for domestic violence against the father. Four hours after being released from jail on March 14, 2014, mother had been found in a car with several men and some methamphetamine. Although one of the men was arrested for the methamphetamine rather than mother, the man later claimed the methamphetamine belonged to mother.

The social worker spoke with father. Father stated that mother had taken the children and left the home two or three months prior. The previous week, a friend told him that mother had left the children alone in a motel room. Father went to the motel, found the children alone and took them back to his home. Mother went to the home and

demanded the children back. Father stated he refused, so mother broke a bedroom window (the window was still broken when the social worker arrived the following week), bent the screen on the front door, and kicked and hit him. Father believed mother was using methamphetamine that day because of the way she acted. He stated police had arrested mother that day for domestic violence and the children had remained in his care. He did not believe the children should be in mother's care.

A young woman came up to the home and stated she was the children's babysitter. The deputies determined that she was under the influence of methamphetamine. The deputies also stated that father appeared to be under the influence of methamphetamine, and he later tested positive.

The social worker found several large bottles of beer, "in various stages of consumption," in the bedroom where the father and the children sleep, along with a propane blow torch next to the bed. Father had installed two surveillance cameras for his one-bedroom apartment. One was pointed outside the bedroom window and the other at the parking lot in the alley. The video played on a large television in the bedroom.

The deputies arrested father for being under the influence of methamphetamine, which was a violation of his probation.

Mother was called to the police station to be interviewed by the social worker. Mother denied taking methamphetamine or drinking, or having mental health issues. Mother was difficult to interview because she often began to talk off subject and had to be brought back to the topic at hand. Mother claimed that father periodically kicked her

and the children out of their apartment when he wanted to “party” for a week or so and would then let them back into the apartment.

On March 21, 2014, DPSS filed a section 300 juvenile dependency petition alleging “failure to protect” as to both parents under subdivision (b), based on the parents’ drug use, domestic violence, criminal activity, unresolved mental health issues, extensive DPSS history and failure to reunify with other children (three for father, eight for mother), the unsafe items in father’s bedroom, leaving the children unsupervised, the use of an inappropriate caretaker, and mother’s transient lifestyle.

At the jurisdiction hearing on June 9, 2014, mother testified about her efforts to address the reasons for the children being detained. After hearing argument from the parties, the juvenile court denied mother reunification services pursuant to section 361.5, subdivisions (b)(10)—failure to reunify with siblings; (b)(11)—loss of parental rights to siblings; and (b) (13)—history of drug abuse and resistance to treatment. The court set a section 366.26 permanency planning hearing for October 20, 2014, and reduced visitation to twice per month.

This writ petition followed.

## **DISCUSSION**

Mother argues the trial court erred when it declined to offer her reunification services pursuant to section 361.5, subdivisions (b)(10), (b)(11),<sup>2</sup> and (b)(13).

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<sup>2</sup> Mother’s writ petition does not directly challenge the juvenile court’s findings under section 361.5, subdivision (b)(11). However, because the criteria and standard of  
*[footnote continued on next page]*

*A. Standard of Review*

“A court reviews an order denying reunification services under section 361.5, subdivision (b) for substantial evidence. [Citation.]” (*Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 96 (*Cheryl P.*.)

*B. Mother Has Not Made Reasonable Efforts to Treat Her Problems*

“There is a presumption in dependency cases that parents will receive reunification services. [Citation.] Section 361.5, subdivision (a) directs the juvenile court to order services *whenever* a child is removed from the custody of his or her parent *unless* the case is within the enumerated exceptions in section 361.5 subdivision (b). [Citation.] Section 361.5, subdivision (b) is a legislative acknowledgement ‘that it may be fruitless to provide reunification services under certain circumstances.’ [Citation.]” (*Cheryl P., supra*, 139 Cal.App.4th at pp. 95-96.)

Under section 361.5, subdivision (b), services may be denied if the court finds by clear and convincing evidence “[t]hat the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 . . . and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child

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*[footnote continued from previous page]*

review for that subdivision mirror those of subdivision (b)(10), we find that mother has not waived her right to challenge that finding.

from that parent or guardian . . . . [¶] [t]hat the parental rights of a parent over any sibling or half sibling of the child had been permanently severed . . . and that, according to the findings of the court, this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling . . . .” (§ 361.5, subds. (b)(10), (11).)

“Thus, section 361.5, subdivision (b)(10) has two prongs or requirements: (1) the parent previously failed to reunify with a sibling of the child; *and* (2) the parent failed to make reasonable efforts to correct the problem that led to the sibling being removed from the parent’s custody.” (*Cheryl P.*, *supra*, 139 Cal.App.4th at p. 96.) Similarly, section 361.5, subdivision (b)(11), has two prongs: the first one is that parental rights were severed as to a sibling of the child, and the second prong is the same as in subdivision (b)(10). (§ 361.5, subd. (b)(11).) “The ‘no reasonable effort’ clause provides a means of mitigating a harsh rule that would allow the court to deny services based only upon the parent’s prior failure to reunify with the child’s sibling ‘when the parent had in fact, in the meantime, worked toward correcting the underlying problems.’ [Citation.]” (*Cheryl P.*, *supra*, 130 Cal.App.4th at p. 97.)

“The reasonable effort requirement focuses on the extent of a parent’s efforts, not whether he or she has attained ‘a certain level of progress.’ [Citation.] ‘To be reasonable, the parent’s efforts must be more than “lackadaisical or half-hearted.”’ [Citations.] However, ‘[t]he “reasonable effort to treat” standard “is not synonymous with ‘cure.’”’ [Citations.]” (*R.T. v. Superior Court* (2012) 202 Cal.App.4th 908, 914.) The court may “consider the *duration, extent* and *context* of the parent’s efforts, as well

as any other factors relating to the *quality* and *quantity* of those efforts, when evaluating the effort for reasonableness. And while the degree of progress is not the *focus* of the inquiry, a parent's progress, or lack of progress, both in the short and long term, may be considered to the extent it bears on the *reasonableness* of the effort made." (*Id.* at p. 914.)

Mother had her reunification services terminated as to three different groups of the children's siblings on three separate occasions—May 24, 2006, October 23, 2006 and May 9, 2007. Parental rights to the three different groups of siblings were likewise terminated on three separate occasions—November 14, 2006, February 20, 2007 and November 13, 2007.

The problems that led to the removal of the children's siblings are mother's extensive and long-term drug use,<sup>3</sup> in addition to domestic violence, and criminal behavior. The evidence of the efforts mother has made to address those problems is as follows: Mother testified that she had separated from father, she attended AA/NA meetings every night of the week after cosmetology school, she consistently tested negative for drugs, she had completed six weeks of parenting classes, and she had enrolled in an anger management class on the day of the jurisdiction hearing. However, despite her years-long and extensive drug abuse problem, mother had last attended an actual drug treatment program in 2011 during the previous dependency for these children,

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<sup>3</sup> DPSS involvement with the family was most often initiated when mother's various children tested positive for drugs immediately after birth.



and had not attended any follow-up or aftercare programs. In addition, until the most recent detention, mother had attended only a few AA/NA meetings. During cross-examination, mother showed a lack of insight into her addiction when she asserted that she did not think being around other addicts would be a threat to her sobriety, stating “. . . if I was to be, I don’t think it would be a problem.” Based on mother’s lack of effort to seek out drug treatment after this, the latest removal of her children caused in part by her drug addiction, we find substantial evidence supports the juvenile court’s conclusion that mother did not make reasonable efforts to address her drug addiction.

Because we uphold the juvenile court’s orders based on section 361.5, subdivisions (b)(10) and (b)(11), we need not address mother’s challenge to the findings under subdivision (b)(13).

#### **DISPOSITION**

The petition is denied.

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RAMIREZ

P. J.

We concur:

McKINSTER

J.

MILLER

J.